

EXHIBIT 2

1
2 UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
3 Civil Action No.: 1:21-cv-05316-DG-TAM

-----x
4 MARVEL CHARACTERS, INC.,
5 Plaintiff,
6 - against -
7 NANCI SOLO and ERIK COLAN,
8 Defendant.

-----x
9 NANCI SOLO and ERIK COLAN,
10 Counterclaimant,
11 - against -
12 MARVEL CHARACTERS, INC. and DOES 1-10
inclusive,
13
14 Counterclaim-Defendants.

-----x
15 October 28, 2022
8:11 a.m.

16
17 VIDEOTAPED DEPOSITION of NANCI SOLO,
18 pursuant to Federal Rule of Civil Procedure
19 30, held at the offices of O'Melveny &
20 Myers LLP, located at 7 Times Square, New
21 York, New York 10036, before Anthony
22 Giarro, a Registered Professional Reporter,
23 a Certified Realtime Reporter and a Notary
24 Public of the State of New York.
25

A P P E A R A N C E S :

O'MELVENY & MYERS LLP

Attorneys for Marvel Characters, Inc.
1999 Avenue of the Stars, 8th Floor
Los Angeles, California 90067
Telephone: (310) 553-6700

BY: MOLLY M. LENS, ESQ.

mlens@omm.com

DANIELLE FEUER, ESQ.

dfeuer@omm.com

SALVATORE J. COCCHIARO, ESQ.

scocchiaro@omm.com

(via Zoom)

MATTHEW KAISER, ESQ.

mkaiser@omm.com

(via Zoom)

TOBEROFF & ASSOCIATES, P.C.

Attorneys for Keith Dettwiler
23823 Malibu Road, Suite 50-363,
Malibu, California 90265

BY: MARC TOBEROFF, ESQ.

JAYMIE PARKKINEN, ESQ.

(via Zoom)

ALSO PRESENT:

MARCELO RIVERA, Videographer

ELI BARD, Marvel

(via Zoom)

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED,
by and among counsel for the respective
parties hereto, that the filing, sealing
and certification of the within deposition
shall be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to form of
the question, shall be reserved to the time
of the trial;

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
before any Notary Public with the same
force and effect as if signed and sworn to
before the Court.

* * *

1 Nanci Solo

2 Q And, again, you responded in
3 the same exact manner; correct?

4 A Yes.

5 Q And is your response
6 accurate, Ms. Solo?

7 A Yes.

8 Q And you say that in all of
9 these responses, that you did a
10 reasonable inquiry?

11 What inquiry did you make?

12 A In terms of having any
13 documents?

14 Q Or any information.

15 A I looked through all of the
16 belongings, papers that I put away in a
17 couple of boxes that I have in the house
18 and even went through photographs that
19 were in a separate box and didn't come
20 across anything, like a document or
21 written proof of any kind about -- about
22 any of the girls or their father.

23 Q Leaving --

24 A Or his first wife.

25 Q Leaving aside documents, Ms.

1 Nanci Solo

2 Solo, what about the information that you
3 know as a result of being your father's
4 child?

5 A What I know?

6 MR. TOBEROFF: Vague.

7 A I know he had a first
8 marriage. I did not know that until I
9 was an adult. And I was told that there
10 were two girls that were then adopted
11 shortly after his divorce and that there
12 had been no contact.

13 Q No contact between your
14 father and his first two children after
15 he divorced his first wife?

16 A I just know that there were
17 two girls from that marriage.

18 Q Who told you that?

19 A My father did.

20 Q And you knew that at the
21 time your father obviously told you that
22 he had two children with his first wife
23 who were adopted shortly after his
24 divorce; you knew that at the time that
25 you answered these requests for

1 Nanci Solo

2 admissions this year; correct?

3 A Yes.

4 Q So why did you not put your
5 information in the request for admission?

6 MR. TOBEROFF: Objection.

7 You're asking a lay witness about a
8 very legal document.

9 MS. LENS: I disagree.

10 MR. TOBEROFF: I don't care.

11 A I was asked for documents.
12 That was my understanding. That's what
13 was being requested.

14 Q How did you -- I'm sorry.
15 Please continue.

16 A That's all.

17 Q How did you come to the
18 understanding that these requests for
19 admissions were asking you whether you
20 had documents?

21 A By reading what was written
22 and requested.

23 Q It says, "Admit that."

24 It doesn't ask you, do you
25 have documents that prove that Jill

1 Nanci Solo

2 Kubicki is a biological child. It asks
3 you to admit that fact.

4 A I never knew that to be a
5 fact, honestly, didn't know that to be a
6 fact. The circumstances of my father's
7 first marriage sounded actually terrible.
8 And I remember learning of it and
9 wondering how he had no contact with two
10 girls that he may have brought into the
11 world. And he had no pictures. He had
12 nothing to show from it.

13 And it actually struck me as
14 unusual and made me question whether or
15 not they were actually his. His love was
16 for his art. And I guess it kind of made
17 me realize a thing about him that wasn't
18 great, like, or just questioned what was
19 that connection, really? Were they
20 really his?

21 I just know that there were
22 two girls in that marriage. And the way
23 it ended, in his words, was extremely
24 swift. And she very quickly remarried.
25 It was what she wanted. There was

1 Nanci Solo

2 financial insecurity already in that
3 first marriage. And she was highly
4 motivated to bring somebody else into her
5 life that would be able to financially
6 support them. So biological
7 conversation, things like that, that
8 wasn't part of what was discussed.

9 Q Well, your father told you
10 that he had two children with his first
11 wife?

12 A He said that there were two
13 girls with his first wife. And he had no
14 details, no pictures, no memories to
15 share with me about it. He was very much
16 married to his work and remained so and
17 kind of removed from family -- family
18 interactions in general.

19 Q Including with you and your
20 brother?

21 A He was always present. But
22 he was always working.

23 Q And so, to your
24 understanding, your father essentially
25 abandoned his first two children from his

1 Nanci Solo

2 first marriage?

3 MR. TOBEROFF: Assumes
4 facts.

5 A No. It sounded like it was
6 a forced situation that his first wife
7 initiated. He's not one to leave.

8 Q Why don't you tell me, to
9 the best of your recollection, what
10 exactly your father told you about the
11 first two children that he had in his
12 first marriage.

13 A Really nothing. He told me
14 nothing. I wanted information. He had
15 nothing to tell me.

16 Q You've since been in contact
17 with your half siblings, have you not?

18 MR. TOBEROFF: Assumes
19 facts.

20 THE WITNESS: Yeah.

21 A We met a couple of times.

22 Q So that's a yes? You met
23 your half siblings; yes?

24 A I met them a couple of
25 times, yes.

1 Nanci Solo

2 Q And that is Jill Kubicki and
3 Valerie Waldman?

4 A Yes.

5 Q And they shared your
6 understanding that they were Gene Colan's
7 biological children from his first
8 marriage; correct?

9 MR. TOBEROFF: Misstates her
10 testimony.

11 A He was the father role. I
12 don't even know, really, what more I can
13 say about his being their biological.
14 But he was their father role. And he
15 then lost that. Actually before the
16 divorce, his first wife made it
17 impossible for him to see them, turned
18 them against him. That was his words.
19 And he couldn't fight it. So he didn't.

20 Q So it was your understanding
21 that your father Gene Colan wanted to
22 stay involved in Valerie Waldman's and
23 Jill Kabuki's lives, but their mother
24 Sally prevented him from doing so; that
25 was your understanding from your father?

1 Nanci Solo

2 A My understanding was just
3 that he was not able to see them, that it
4 was always problematic and very upsetting
5 to not only him, but the girls, that very
6 shortly after the divorce, his first wife
7 remarried, and he was asked to -- he
8 signed legal documents for her second
9 husband to legally adopt those girls.

10 Q So your understanding from
11 your father is that his ex-wife Sally
12 remarried a man named Norman Bruce and
13 that after that remarriage, your father
14 consented to have Norman adopt the
15 children?

16 A Yes.

17 MR. TOBEROFF: I think you
18 said Bruce. It's Brust.

19 Q You have no basis to believe
20 that Sally, his first wife, had an
21 affair? You're not suggesting that, are
22 you, Ms. Solo?

23 A I just don't know.

24 Q But you have no basis to
25 suggest that she had an affair, do you?

1 Nanci Solo

2 A I have no basis either way.

3 Q Let me ask it this way.

4 You have no basis to suggest
5 that -- what facts, if any, do you have
6 to suggest that his first wife had an
7 affair? Are you making that suggestion
8 on the record under oath?

9 MR. TOBEROFF: You could
10 answer.

11 A I just don't know. I just
12 don't know what I don't know. And I
13 don't know that.

14 Q Have you read the book
15 Secrets in the Shadows about your father?

16 A I may have. I don't know.
17 Was that one of the books?

18 Q We'll see if we could
19 refresh your recollection. It's actually
20 a book that you produced in this case.
21 It's Exhibit 58, a copy of the book,
22 Secret in the Shadows.

23 (The above-referred-to
24 document was marked as Exhibit 58 for
25 identification, as of this date.)

1 Nanci Solo

2 Q Which is Bates Stamped
3 COLAN99. Full title of the book is
4 Secret in the Shadows, the Art and Life
5 of Gene Colan by Tom Field.

6 Now, it's obviously a
7 photocopy of a book. But this is the way
8 that you produced it in the case.

9 Does this refresh your
10 recollection that you've read this book?

11 A No. I just don't know.

12 Q Well, you said earlier, I
13 believe, that you were interested in
14 learning more about your father's earlier
15 life?

16 A Yes.

17 Q And so did you make it your
18 practice to read if there had been an
19 entire book published about his life? Do
20 you think you would have read it?

21 A Yes. I believe I would
22 have. I just don't know that I have or
23 that I -- I just don't remember.

24 Q And given that this book was
25 produced by you -- and I'll represent to

1 NANJI SOLO

2 you that you're shown as the custodian of
3 the document, meaning it came from your
4 own files -- you wouldn't have a book
5 about your father at your house that you
6 hadn't read, would you?

7 A No.

8 MR. TOBEROFF:

9 Argumentative.

10 A I mean I would have read it
11 at some point.

12 Q So let's turn to page --
13 well, it's page 55 of the book itself and
14 COLAN116. Well, let's look at page 54
15 first which is the left-hand side of the
16 page.

17 Do you see that it
18 reads, "Gene and Sally did, indeed,
19 marry. And they settled down in an
20 apartment in Bronxville. And before
21 long, they were the parents of two young
22 girls, Valerie and Jill, born in 1954 and
23 1957, respectively."

24 Do you see that?

25 A Yes.

1 Nanci Solo

2 Q Now that you've seen that,
3 do you recall reading that in this book,
4 Secrets in the Shadows?

5 A No. But I --

6 MR. TOBEROFF: Just --

7 THE WITNESS: Yeah.

8 Q I'm sorry.

9 What were you going to say
10 before your attorney cut you off?

11 MR. TOBEROFF: I didn't say
12 anything.

13 MS. LENS: You did.

14 MR. TOBEROFF: I was going
15 to. And I didn't. So don't
16 misrepresent.

17 MS. LENS: It's interesting
18 because the record picked it up,
19 Mr. Toberoff.

20 A I don't recall reading that
21 highlighted part. But that picture looks
22 familiar to me.

23 Q And you're looking at the
24 picture on the next page which shows a
25 picture of two little girls in a bathtub.

1 Nanci Solo

2 And it's entitled First Born, Colan's
3 Daughters, Valerie and Jill, from his
4 first marriage, Circa 1958; right?

5 A I see that.

6 Q And this book, Secret in the
7 Shadows, was a book that your parents
8 participated in the writing of; right?

9 MR. TOBEROFF: Assumes
10 facts, lacks foundation.

11 Q You nodded yes; correct?

12 A I don't know for a fact that
13 they participated in it.

14 Q You don't recall your
15 parents telling you that they were
16 working with Tom Field on this book, on
17 your father's life?

18 A No. I don't recall that.

19 Q And you see on the first
20 tab, on page 5 of the book, Bates Stamped
21 COLAN101, you can see that the author
22 thanks Adrienne and Gene Colan for
23 opening their archives, their lives and
24 their hearts to him?

25 A I see that.

1 Nanci Solo

2 Q Does that help refresh your
3 recollection that your parents
4 participated in the creation of this book
5 about your father?

6 MR. TOBEROFF: Lacks
7 foundation, assumes facts.

8 A I just don't recall their
9 participation.

10 Q Do you recall that your
11 mother gave an interview for the purposes
12 of this book?

13 A I don't recall their
14 participation in this interview
15 personally.

16 Q We're going to get one of
17 the videos back up.

18 Could we borrow Exhibit 38
19 from you, just the CD? We need to play
20 the CD again.

21 (Whereupon, at this time, a
22 video was played.)

23 Q So you saw in this
24 interview, your father was discussing the
25 Secret in the Shadows book, the same book

1 Nanci Solo

2 that we've marked as Exhibit 58?

3 A Yes.

4 Q And you see that he agreed
5 that it told all about his life; correct?

6 MR. TOBEROFF: Okay -- okay.

7 A I don't really know that
8 that's what he said. Is that what he
9 said? I don't know if that's what he
10 said.

11 Q Well, you could look at the
12 certified transcript, if you want, which
13 is Exhibit 39, which is in front of you,
14 or we could have it played again. It's
15 not a trick question.

16 MR. TOBEROFF: Replay that
17 portion about the book again.

18 MS. LENS: Sure. You also
19 have the transcript if you would like
20 to follow along.

21 MR. TOBEROFF: That looks
22 like a different cover.

23 MS. LENS: Don't.

24 (Whereupon, at this time, a
25 video was played.)

1 Nanci Solo

2 A Yes.

3 Q So you would agree with me
4 that your father agreed that the book,
5 Secret in the Shadows by Tom Field, tells
6 all about his life; correct?

7 MR. TOBEROFF: Misstates the
8 record.

9 MS. LENS: It doesn't.

10 Q You can answer, Ms. Solo.

11 A He agreed that the book told
12 his story.

13 Q And, in fact, the
14 interviewer asked him again:

15 "QUESTION: And this tells
16 your entire history?

17 "ANSWER: Gene Colan:
18 Everything.

19 "QUESTION: It's a really
20 terrific book?

21 "ANSWER: Gene Colan, yes."

22 Q You heard that; correct?

23 A Yes.

24 Q Let's go back to Exhibit 57,
25 please, which is your answers to the

1 Nanci Solo

2 requests for admission.

3 If we can turn to Request
4 for Admission 7, you see that request for
5 admission asked you to admit that Gene
6 Colan had four biological children. Do
7 you see that?

8 A Yes.

9 Q And you answered that you
10 don't currently possess any documents
11 that address this subject and that the
12 information is not within the present
13 knowledge of defendants' agents and that
14 after reasonable inquiry, the information
15 that you know or can reasonably obtain is
16 insufficient to enable to fully admit or
17 deny this request. Notwithstanding the
18 above, defendant admits that Gene Colan
19 had two biological children.

20 And you identified yourself
21 and your brother, Erik Colan, and then as
22 to the remainder of the request, you
23 denied it. You see that?

24 A Yes.

25 Q And do you believe that's

1 Nanci Solo

2 accurate?

3 A Yes.

4 Q How do you know that you're
5 the biological child of Gene Colan?

6 A I have a birth certificate.
7 I think we're the same blood type. No.
8 I don't have any reason to believe
9 otherwise. I look like him and his
10 mother.

11 Q He told you that he was your
12 father; correct?

13 A Yes.

14 Q Just like he told you that
15 he was the father of the children from
16 his first marriage; correct?

17 A There were two girls from
18 his first marriage. That's the way I
19 understood it, that there were two girls
20 from his first marriage. I don't know
21 that they were biological. I just know
22 that there were two girls from the first
23 marriage, that they were very young, and
24 they were adopted very shortly after they
25 divorced. And that's the extent of what

1 Nanci Solo

2 I know.

3 Q Ms. Solo, I don't want
4 belabor this point.

5 But is it your testimony
6 that your father didn't tell you that he
7 was the father of those two girls from
8 his first marriage? He told you that he
9 was their father, did he not?

10 MR. TOBEROFF:

11 Argumentative, asked and
12 answered.

13 A He said that there were two
14 girls from his first marriage.

15 Q Your father understood that
16 he was their father, did he not? That's
17 why --

18 A I don't know. I don't know.

19 Q Do you consider -- when you
20 met them, did you consider Valerie and
21 Jill to be your half sisters?

22 A I embraced these two girls
23 that were part of his first marriage as
24 my parents did. And biology didn't
25 really come into the equation. It seemed

1 NANJI SOLO

2 like a very strained and strange parting
3 of a female that I never really got
4 adequate details about.

5 Q Do you have any
6 understanding if Gene Colan, your father,
7 wasn't the biological father of Jill and
8 Valerie, why he would have to consent to
9 their adoption?

10 MR. TOBEROFF: Calls for a
11 legal conclusion.

12 A Just based on that
13 information, it would seem that he felt
14 legally responsible for them at the time,
15 but not necessarily their biological
16 father, just that he was legally
17 responsible for them at the time.

18 Q Just to be clear, Ms. Solo,
19 did your father ever tell you that he
20 wasn't the biological father of Valerie
21 and Jill?

22 A We never had a conversation
23 about biological.

24 Q So the answer -- your father
25 never told you or suggested that he

1 Nanci Solo

2 wasn't the biological father of Jill and
3 Valerie; isn't that true?

4 A I don't recall him saying
5 anything like that.

6 Q Thank you.

7 When you met Valerie and
8 Jill, did you meet Valerie's child
9 Rachel?

10 A One time when -- one of the
11 two times I saw her, Valerie was in town
12 and so was her daughter. And I met her
13 briefly.

14 Q Her daughter Rachel Waldman;
15 is that correct?

16 A Yes.

17 Q Are you aware that Valerie
18 Waldman has passed away?

19 A Yes.

20 Q And you're aware that
21 Valerie's child Rachel Waldman is still
22 living; correct?

23 A I don't know.

24 Q You don't know, one way or
25 the other?

1 Nanci Solo

2 A Correct.

3 Q When your father passed
4 away, did you reach out to Valerie and
5 Jill to let them know that?

6 A I don't recall. But -- I
7 don't recall reaching out. But I
8 remember Val being at his funeral.

9 Q How did you introduce Val to
10 anyone? Did you introduce Valerie to
11 anybody at the funeral?

12 A I don't recall what
13 introductions I made on that day.

14 Q Do you recall that you --
15 that Valerie -- strike that.

16 Do you recall that both
17 Valerie and Jill had to submit waivers in
18 order for you to be able to be appointed
19 the administrator or the executor of your
20 father's estate?

21 A Yes.

22 Q And that was because they
23 were children of Gene Colan; correct?

24 MR. TOBEROFF: Calls for a
25 legal conclusion. You could answer.

1 Nanci Solo

2 A They were daughters in his
3 first marriage.

4 Q Do you recall that you
5 affirmed under oath that Valerie and
6 Jill -- Valerie Waldman and Jill Kubicki
7 were the daughters of Gene Colan when you
8 applied to be appointed the administrator
9 or executor of your father's estate?

10 A I just recall that they were
11 two girls from his first marriage, and
12 that is what brought them into that as a
13 result of there being an issue with his
14 will.

15 MS. LENS: Could I have the
16 question read back, please? I'm
17 going to move to strike as
18 non-responsive.

19 (The requested portion was
20 read back by the court reporter.)

21 MR. TOBEROFF: Asked and
22 answered. You could answer again.

23 A I just don't remember it in
24 that way. I recall that he had two
25 daughters from his first marriage. And

1 Nanci Solo

2 therefore, they had to be included in
3 whatever happens when a will has to go
4 into probate or something like that.
5 Something like that happened. And a will
6 was considered invalid. And we needed
7 their signatures because he at one time
8 was their legal parent, father.

9 Q Do you have a copy of your
10 father's will that was declared to be
11 invalid?

12 A I don't know.

13 Q Do you have an understanding
14 of why it was declared to be invalid?

15 A Yes.

16 Q What is that?

17 A I recall the lawyer asking
18 me to send him a copy.

19 MR. TOBEROFF: Don't -- I'm
20 just advising you. I don't know if
21 you're about to. But if you had a
22 lawyer, don't testify as to your
23 conversations with a lawyer.

24 THE WITNESS: Okay.

25 MR. TOBEROFF: Or anything

1 Nanci Solo

2 you learned from the lawyer.

3 A It was deemed invalid
4 because a staple was removed. That's
5 what I was told.

6 Q Who were the beneficiaries
7 in your father's will that was deemed
8 invalid?

9 A My mother who was alive at
10 the time, myself and my brother and then
11 Valerie, her two children, she had two,
12 one has passed, Jill and my three
13 children.

14 Q Did you tell Jill and
15 Valerie that they, as well as Valerie's
16 children, were named in your father's
17 will?

18 A I don't recall. But I would
19 have no reason not to tell her.

20 Q Did the will describe your
21 father's relation to Valerie and Jill?

22 A I don't recall.

23 MS. LENS: Marc, I think
24 we've already requested it. But to
25 be clear, we need a copy of the will,

1 Nanci Solo

2 electronic signature on behalf of you and
3 your brother.

4 So if we look at the
5 highlighted portion on page 4, you can
6 see that Mr. Toberoff
7 writes, "Defendants -- meaning you and
8 your brother -- were, thus, surprised by
9 Marvel's assertions in its letter
10 regarding two children, Valerie, now
11 deceased, and Jill, Gene Colan had with
12 his first wife Sally after the couple's
13 divorce decades ago. Sally renamed
14 Norman Brust, who legally adopted Valerie
15 and Jill in New York. This legal
16 adoption vitiated Valerie and Jill's
17 status as Gene Colan's children and with
18 it, any interests under the act's
19 termination provisions." Do you see
20 that?

21 A I do.

22 Q And did you provide that
23 information to Mr. Toberoff?

24 MR. TOBEROFF: Vague.

25 A I provided the information

1 Nanci Solo

2 that I know, what I actually know.

3 Q And you are not taking the
4 position that Mr. Toberoff's
5 representations to the court on your
6 behalf are inaccurate, are you?

7 MR. TOBEROFF: Lacks
8 foundation. You could answer.

9 A No.

10 Q Ms. Solo, you understand
11 that -- do you understand that Marvel
12 commenced this lawsuit after you and your
13 brother caused purported termination
14 notices to be served on it?

15 A Yes.

16 Q And do you understand that
17 Marvel did so to have the court declare
18 that the termination notices that you
19 served were invalid; correct?

20 A Say that again.


21 Q It wasn't a very good
22 question. I'll try it again.

23 Do you understand that
24 Marvel's complaint that was filed against
25 you and your brother seeks to have the

C E R T I F I C A T I O N

I, ANTHONY GIARRO, a Shorthand Reporter and a Notary Public, do hereby certify that the foregoing witness, NANCY SOLO, was duly sworn on the date indicated, and that the foregoing, to the best of my ability, is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.



ANTHONY GIARRO